

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

SONNY D. BALVIN,

)

8:12CV377

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Petitioner,

)

)

v.

)

**MEMORANDUM
AND ORDER**

)

FRED BRITTEN,

)

)

Respondent.

)

This matter is before the court on Petitioner's Notice of Appeal. (Filing No. [23](#).) On September 16, 2013, the court dismissed Petitioner's habeas corpus claims and entered Judgment against him. (Filing Nos. [21](#) and [22](#).) In doing so, the court informed Petitioner that it would not issue a certificate of appealability in this case. (Filing No. [21](#) at CM/ECF p. 12.) Thereafter, Petitioner filed a timely Notice of Appeal. (Filing No. [23](#).)

Petitioner has not paid the appellate filing fee nor filed a motion for leave to appeal in forma pauperis. (See Filing No. [24](#).) [Federal Rule of Appellate Procedure 24\(a\)](#) provides:

(1) Motion in the District Court. Except as stated in Rule 24(a)(3), a party to a district-court action who desires to appeal in forma pauperis must file a motion in the district court. The party must attach an affidavit that:

(A) shows in the detail prescribed by Form 4 of the Appendix of Forms the party's inability to pay or to give security for fees and costs;

(B) claims an entitlement to redress; and

(C) states the issues that the party intends to present on appeal.

Id. Accordingly, Petitioner shall have until November 7, 2013, to either pay the \$455.00 appellate filing fee or file a motion for leave to proceed in forma pauperis in accordance with [Fed. R. App. P. 24](#).

IT IS THEREFORE ORDERED that:

1. Petitioner shall have until November 7, 2013, to either pay the \$455.00 appellate filing fee or file a motion for leave to proceed in forma pauperis in accordance with [Fed. R. App. P. 24](#).

2. If Petitioner fails to comply with this Memorandum and Order, his appeal will not be processed.

DATED this 9th day of October, 2013.

BY THE COURT:

s/ Joseph F. Bataillon
United States District Judge

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